

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re:)	Chapter 11
)	
U.S. CABLE, INC.)	Case No. 05-63890
)	
Debtor.)	Honorable Judge Bruce W. Black
)	
)	Hearing Date: March 11, 2009
)	Hearing Time: 10:30 a.m.
In re:)	Chapter 11
)	
ORIOUS TELECOMMUNICATION SERVICES, INC.)	Case No. 05-63887
)	
Debtor.)	Honorable Judge Bruce W. Black
)	
)	Hearing Date: March 11, 2009
)	Hearing Time: 10:30 a.m.

NOTICE OF MOTION

TO: See Attached Service List

PLEASE TAKE NOTICE that on **Wednesday, March 11, 2009 at 10:30 a.m.** or as soon thereafter as counsel may be heard, we shall appear before the **Honorable Bruce W. Black**, United States Bankruptcy Judge, in the room usually occupied by him as a Courtroom in the Everett McKinley Dirksen United States Courthouse, 219 South Dearborn Street, Chicago, Illinois, or in his absence, before such other Judge who may be sitting in his place and stead and hearing bankruptcy motions, and shall then and there present the accompanying **Motion for Entry of Final Decree and Order Closing Certain Chapter 11 Cases**, a copy of which is attached hereto and is hereby served upon you, and shall pray for the entry of an order in conformity with the prayer of said pleadings.

Dated: March 4, 2009

Respectfully submitted,

THE ORIUS LIQUIDATION TRUST

/s/ Timothy W. Brink

One of Its Attorneys

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CERTIFICATE OF SERVICE

Timothy W. Brink, an attorney, hereby certifies that on March 4, 2009, he caused the foregoing **Motion for Entry of Final Decree and Order Closing Certain Chapter 11 Cases** and the two proposed orders both entitled **Final Decree and Order Closing Case** to be filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

Additionally, the following parties were served via United States mail, first class postage prepaid. Parties may access this filing through the Court's CM/ECF system.

/s/ Timothy W. Brink

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**MOTION FOR ENTRY OF FINAL DECREE AND
ORDER CLOSING CERTAIN CHAPTER 11 CASES**

The Orius Liquidation Trust (the "**Trust**"), by and through Lori Lapin Jones, not individually but solely in her capacity as Trustee of the Orius Liquidation Trust, hereby submits this motion (the "**Motion**") under 11 U.S.C. § 350 and Rule 3022 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), for entry of a final decree and order (the "**Final Decree and Order**") closing the chapter 11 cases of the above captioned debtors, i.e., U.S. Cable, Inc. and Orius Telecommunication Services, Inc. (the "**Affected Debtors**").

BACKGROUND

1. On December 12, 2005 (the "**Petition Date**"), each of the Debtors¹ filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C.

¹ The Debtors are the following entities: Orius Corp., NATG Holdings, LLC, Orius Telecom Services, Inc., Orius Telecommunication Services, Inc., Orius Central Office Services, Inc., Texor, Inc., CATV Subscriber Services, Inc.,

§§ 101-1532 (as amended, the "**Bankruptcy Code**") with the United States Bankruptcy Court for the Northern District of Illinois, Eastern Division (the "**Court**"), commencing the above-captioned chapter 11 cases.

2. On November 16, 2006, this Court approved the Debtors' Plan.²

3. The Effective Date of the Plan was December 21, 2006.

4. As of the Effective Date, all of the remaining Property of the Estates was transferred to and vested in the Trust. Effective February 1, 2007, Lori Lapin Jones is the Trustee of the Trust.

5. The Court has jurisdiction over this Motion pursuant to 28 U.S.C. § 157 and 1334 and pursuant to Article XI of the Plan. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

6. The statutory predicates for the relief requested in this Motion are section 350 of the Bankruptcy Code and Rule 3022 of the Bankruptcy Rules.

RELIEF REQUESTED

7. By this Motion, the Trust requests that this Court enter a Final Decree and Order closing the Affected Debtors' cases, both of which have been fully administered. Orius Corp. is the only Debtor whose case will remain open once this Motion is granted.

BASIS FOR RELIEF

8. The Affected Debtors represent all of the Debtors whose cases currently remain open, other than Orius Corp. The Affected Debtors' estates are now fully administered, and all

Hattech, Inc., Channel Communications, Inc., LISN, Inc., Copenhagen Utilities & Construction, Inc., LISN Company and U.S. Cable, Inc.

² Capitalized terms not otherwise defined in this Motion shall have the definitions ascribed to them in the Debtors' Second Amended Joint Plan of Liquidation.

of the Affected Debtors' remaining obligations or duties under the Plan have been fulfilled. Accordingly, it is appropriate to close the Affected Debtors' cases at this time.

APPLICABLE AUTHORITY

9. Section 350(a) of the Bankruptcy Code provides that after an estate is fully administered "the court shall close the case." Bankruptcy Rule 3022 further provides that "[a]fter an estate is fully administered in a chapter 11 reorganization case, the court, on its own motion or on motion of a party in interest, shall enter a final decree closing the case."

10. The concept of "fully administered" means "the point when the estate reaches substantial consummation as defined by section 1101(2) of the Bankruptcy Code." *In re Wade*, 991 F.2d 402, 407, n. 2 (7th Cir. 1992). Section 1101(2) of the Bankruptcy Code provides that:

(2) "substantial consummation" means:

- (A) transfer of all or substantially all of the property proposed by the plan to be transferred;
- (B) assumption by the debtor or by the successor to the debtor under the plan of the business or of the management of all or substantially all of the property dealt with by the plan; and
- (C) commencement of distribution under the plan.

11. In addition, courts have directed that the following events should be considered when determining if an estate has been fully administered: 1) when the order confirming the plan has become final, 2) when deposits have been distributed, 3) when payments under the plan have been commenced and 4) when all motions, contested matters, and adversary proceedings have been resolved. *In re Xpedior Inc.*, 354 B.R. 210, 219 (Bankr. N.D. Ill. 2006).

12. All of the above factors have been met in the Affected Debtor's Chapter 11 cases: the Effective Date of the Plan was December 21, 2006; the Plan required no distribution of deposits; and there are no unresolved motions, contested matters and adversary proceedings involving the Affected Debtors.

13. Pursuant to section 6.3(a) of the Plan and section 1141(b) of the Bankruptcy Code, on the Effective Date, all remaining Property of the Estates, including, without limitation, all Avoidance Actions (excluding Avoidance Actions released under any of Sections 4.9, 11.3, 11.4, 11.5 or 11.6 of the Plan), Causes of Action (excluding Causes of Action released under any of Sections 4.9, 11.3, 11.4, 11.5 or 11.6 of this Plan), causes of action on behalf of the Debtors seeking recovery of the Debtors' accounts receivable, L/C Disputes, the Customer Receivables, the Debtors' equitable and contractual rights, including but not limited to their rights as applicants and account parties, under any letters of credit, all rights of the Debtors under the Plan, the Confirmation Order, and all other orders entered by the Bankruptcy Court in the Chapter 11 Cases on or prior to the Effective Date, and all books and records related to the Estates (collectively, the "**Transferred Assets**"), were transferred to and vested in the Liquidation Trust and are deemed contributed thereto, subject to the terms of the Plan. By filing this Motion and seeking a final decree in the Affected Debtors' cases, the Trust should not be deemed to have abandoned any Transferred Asset. The lead case in the Debtors' jointly administered cases, *In re Orius Corp.*, is not subject to this Motion, and the Trust will not seek entry of a final decree regarding *In re Orius Corp.* until such time as all Transferred Assets have been liquidated.

NOTICE

14. Local Rule 3022-1 provides that "[u]nless the court orders otherwise, debtors or parties in interest moving after chapter 11 plan confirmation either to close the case or enter a final decree shall (1) give notice of such motion to the United States Trustee, any chapter 11 trustee, and all creditors, and (2) state within the notice or motion the actual status of payments due to each class under the confirmed plan." Payments, if any, due to each class of creditor under the Plan who have asserted claims against any of the Affected Debtors shall be made from Orius Corp. (who is not among the Affected Debtors) under the terms of the Plan. Notice of this Motion has been given to: (a) the United States Trustee; (b) counsel to Deutsche Bank Trust Company Americas, as agent for the Prepetition Lenders; (c) former counsel to the Official Committee of Unsecured Creditors; and (d) all parties who have requested notices in the Debtors' cases. In light of the nature of the relief requested, the Trust submits that no further notice is required.

WHEREFORE, the Trust respectfully requests that the Court enter a Final Decree and Order for each of the Affected Debtors, substantially in the forms attached as Exhibit A and Exhibit B hereto, (i) closing Affected Debtors' cases, and (ii) granting such other and further relief as the Court may deem proper.

Dated: March 4, 2009

Respectfully submitted,

THE ORIUS LIQUIDATION TRUST

/s/ Timothy W. Brink

One of Its Attorneys

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